THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17646 of 2004

ORDER:

This writ petition is filed being aggrieved by the order passed by the first respondent in proceedings Revision No.D/230/2003 dated 15.9.2004, wherein the order passed by the second respondent in Appeal No.D/269/2002 dated 21.3.2003 was confirmed.

It appears, petitioner is a fair price shop dealer of Dendukur village Madhira mandal, Khammam district. On the basis of a report of the fourth respondent-Mandal Revenue Officer, the third respondent-Revenue Divisional Officer cancelled the authorisation of the petitioner by order dated 19.3.2002 for two charges viz.

1. The dealer has not issued Rice to the cardholders bearing No.104339, 148651, 107782 and 241795 and not made entries in the issue register and shown the closing balance as nil.

2. The dealer had lifted 59.68 quintals of PDS Rice, distributed 52.24 quintals as per coupons and the balance Rice of the quintals 7.44 is misused by the dealer and physically the ground balance is not available with the dealer and failed to account for the 7.44 quintals of Rice.

Aggrieved by the same, petitioner carried the matter in appeal before the second respondent-Joint Collector. However, the second respondent dropped charge No.1 and confirmed the findings recorded against charge No.2 and thus, dismissed the appeal by order dated 21.3.2003. The petitioner further carried the matter in revision before the first respondent-District Collector. The first respondent dismissed the revision by confirming the orders passed by the second respondent. Aggrieved by the same, the present writ petition is filed.

There is no necessity of going into all the details.

The order of the primary authority shows that the fourth respondent-Mandal Revenue Officer was asked to offer his remarks on the

explanation submitted by the petitioner after conducting a detailed enquiry into the matter. In the explanation, it was stated that at the time of distribution of F.F.W. (Food for Work) rice, the Rice bags, which were received from M.L.S. point and weighed in the presence of Sarpanch found that there is a shortfall of one kg. in each bag and variation is 7.44 quintals. Further, the fourth respondent failed to submit the weighment receipt and is silent about the shortage of rice supplied from M.L.S. point. The third respondent however, gave a finding that it cannot be said that there is a shortfall of 1 kg. in every bag. Further, the third respondent held that the dealer has not supplied the rice to the cardholders and sold away in the black market, and therefore, cancelled the authorisation of the petitioner. It is unfortunate that the third respondent took such a stand. Though the second respondent dropped the first charge, but confirmed the findings recorded against second charge.

The learned Government Pleader, on the basis of instructions and the material made available on record strenuously contended that no doubt first charge is dropped, but the second charge is very serious in its nature. Out of 59.68 quintals of rice, 7.44 quintals was found to be not distributed. Therefore, the order passed by the third respondent as confirmed by the respondents 1 and 2 does not call for any interference by this Court under Article 226 of the Constitution of India.

Having heard the learned counsel appearing on either side and having perused the material made available on record, I am of the opinion that the very order passed by the third respondent does not inspire the confidence of the Court to say that there was a variation of 7.44 quintals of rice under charge No.2. Thus, the order passed by the third respondent, which was confirmed by the second respondent and further confirmed by the first respondent did not deal with the aspect of shortfall of 1 kg. Rice supplied from the M.L.S. point. Had this been taken into consideration as per the report of the fourth respondent, even the second charge is liable to be dropped.

For all the above reasons, the writ petition is allowed and the order passed by the third respondent dated 19.3.2002 as confirmed by the respondents 1 and 2 dated 15.9.2004 and 21.3.2003 respectively are set aside and the respondents are directed to restore the authorisation of the petitioner forthwith. However, the period from the date of cancellation of authorisation till date shall be treated as suspension as a measure of punishment. No order as to costs.

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C.V.RAMULU, J

Date: 22.9.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

22.9.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17646 of 2004

Date: 22nd September, 2006

Between:

Smt.D.Bhanumathi

.. Petitioner

And

The District Collector,
Khammam and others.

.. Respondents